

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

DEC 13 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

BEN L. MCKENZIE,

Plaintiff - Appellant,

v.

JO ANNE B. BARNHART,
Commissioner of Social Security,

Defendant - Appellee.

No. 04-17012

D.C. No. CV-03-06501-DLB

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of California
Dennis L. Beck, Magistrate Judge,^{**} Presiding

Submitted December 5, 2005^{***}

Before: GOODWIN, TASHIMA, and FISHER, Circuit Judges.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The parties consented to proceed before a magistrate judge.

^{***} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Ben L. McKenzie appeals the district court's summary judgment affirming the Commissioner of the Social Security Administration's ("Commissioner") denial of his application for Title II Social Security disability insurance benefits and Title XVI Supplemental Security Income benefits. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo the district court's decision, and we review for substantial evidence and legal error the Administrative Law Judge's ("ALJ") decision. *Tackett v. Apfel*, 180 F.3d 1094, 1097 (9th Cir. 1999). We affirm.

The ALJ's findings that McKenzie's depression was not disabling were supported by substantial evidence. *See id.* To the extent the ALJ rejected or ascribed less weight to the controverted opinion of Dr. King, his reasoning was specific and legitimate. *See Magallanes v. Bowen*, 881 F.2d 747, 751 (9th Cir. 1989). To the extent the ALJ resolved ambiguous or conflicting medical evidence, his reasoning was also specific and legitimate. *See Andrews v. Shalala*, 53 F.3d 1035, 1040 (9th Cir. 1995).

AFFIRMED.